IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mohammad Yousuf. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 457/2006
against the order dated 23-12-2005 passed
by the Additional Chief Judicial Magistrate No.1,
Jodhpur, in Criminal Case No. 532/2005.

...

Date of Order: August 02, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.Mukesh Vyas, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. G.M. Khan, for the non-petitioner No.2.

BY THE COURT:

Heard learned counsel for the parties and perused the order impugned passed by the Additional Chief Judicial Magistrate No.1, Jodhpur (for short, "the trial Court" hereinafter) in Criminal Case No.532/2005 on an application filed by the non-petitioner No.2 under Section 457 Cr.P.C.

This Court, in Dhan Singh Bhati Vs. State of Rajasthan & Anr., 1998 (3) RLW (Raj.) 1682, held that the order passed under Section 451 read with Section 457 Cr.P.C. is not

interlocutory in nature and revision against the said order is maintainable. Since the remedy by way of revision petition is available to the petitioner, the criminal miscellaneous petition under Section 482 Cr.P.C. is not maintainable and liable to be dismissed.

Consequently, the criminal miscellaneous petition filed by the petitioner is dismissed. However, it is open for the petitioner, if so advised, to file revision challenging the impugned order.

(H.R. PANWAR), J.

mcs